

**SUMMARY OF PUBLIC COMMENTS: 15-DAY COMMENT PERIOD - ENDING DECEMBER 26, 2003**

Section	Name and Agency	Comment	CDE Response
General	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley. (5) Stephanie Simcox, Children's Council of San Francisco. (6) Michele Rutherford, City/County of San Francisco. (12) Theresa Corrigan, Child Action. (17) Denise Dowell, United Child Care Union. (18) Billee Willson, Sacramento County Dept. of Human Assistance.	1. Appreciate changes to 45-day regs. Thank you to the state staff for their responsiveness to the input by stakeholders.	The comments are noted; no response is necessary as the commenters are extending appreciation.
General	(3) Linda Oliver, Child Care Provider.	2. Experiencing hardship because of lower reimbursement rates.	The comments are noted; however no changes were made to the regulations. No response is necessary because the comments are outside the scope of the regulations.
General	(16) Eve Hershcopf, Child Care Law Center.  (20) Chris Cleary / Melinda Felice, San Francisco Child Care Planning and Advisory Council (CPAC).	3. 15-day comment period too short; notice sent only to a "relatively small number of child care advocates."	The comments are noted. The Office of Administrative Law regulations specifies the length of public comment period and the recipients of 15-day notice, Title 1, Division 1, Chapter 1, California Code of Regulations, Article 2, Section 44.
18074.1	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	4. Page 1 line 32: Please use the title "documented rates" instead of "established rates."	Comments are noted; however no changes were made related to the comments. The current definition of "established rate" means documented rate.
18074.1	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	5. Page 1 line 33: Please delete the words "but not to exceed the regional market rate ceiling."	Comments are noted. CDE amended the regulations and the phrase "but not to exceed the regional market rate ceiling" was deleted.
18074.1(c)	(17) Denise Dowell, United Child Care Union.	6. Definition of "established rate" indicates providers cannot charge unsubsidized families more than that regional market ceiling. Erroneous. The	Comments are noted; however no changes were made related to the comments. The RMR survey applies to both subsidized and unsubsidized families.

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		regional market ceiling only applies to subsidized families.	
18074.2	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	7. Delete lines 25-29 on page 3; violates Education Code 8222.5(c).	Comments are noted. CDE revised the regulations to meet the Education Code requirements that CDE specify a process for contractors to determine the amount charged to private pay families. This is necessary for the consistent administration of programs statewide.
18074.2	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	8. Divide section according to methods for establishing a rate.	Comments are noted; however no changes were made related to the comments. The current Section requires contractors to use age of child, facility type and the need for child care as the basis for applying the regional market rate.
18074.2	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	9. Explain meaning of “provider’s established rates <u>corresponds</u> to the certified need.”	Comments are noted; however no changes were made related to the comments. The provider establishes their rates based on the number of hours of care per child. This rate matches the certified need of the child based on the number of hours of child care needed.
18074.2	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	10. Page 3 lines 25 and 26: If this did not need to be deleted, you would need to add the words “the agency” before “may establish a rate.”	Comments are noted. Changes were made to provide clarity of the regulations.
18074.2	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	11. Clarify what agency is to do when a child with a corresponding rate is enrolled after the agency derives a different rate....	Comments are noted. The corresponding rate takes precedence over the agency's derived rate.
18074.2	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	12. Specify how often agency is to ask providers to document their private rates.	Comments are noted; this concern is addressed in Section 18074.3. This section states that the provider must supply documentation for a consecutive period of at least 3 of the last 12 preceding months.
18074.2	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	13. Page 3, line 24, through page 4 line 24: the documentation requirements need their own heading.	Comments are noted; this concern is addressed in Section 18074.3 (d) which lists the documentation needed.
18074.2	(2) Nancy Wyatt, President,	14. Specify how provider is to be	Comments are noted; however no changes were made

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	Family Child Care Council of San Fernando Valley.	reimbursed when the provider has a documented rate that corresponds to the certified need.	related to the comments. Section 18074.3 (k) addresses this concern.
18074.2	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	15. Specify what the contractor [is] to do when the family's need can be met by more than one category as defined in section 18075 <u>and the provider has a documented rate that corresponds to the certified need.</u>	Comments are noted; however no changes were made related to the comments. Section 18074.3 (k) addresses this concern.
18074.2	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	16. Page 3 lines 25-29: these lines would produce two different 25% rules.	Comments noted. Section 18074.3 (b) has been amended and deletes the requirement that contractors document that at least 25% of the children enrolled are unsubsidized.
18074.2	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	17. Clarify what you mean by documentation requirements for "each rate" used by unsubsidized families.	Comments are noted. Section 18074.3 (D) specifies the type of documentation required.
18074.2	(19) Wendy Wayne, Kern County Superintendent of Schools.	18. Lack of consistency. When assessing the rate category for kindergartners, the regulations indicate to follow licensing guidelines for center based care. Centers and Family Child Care providers are lumped in together, when their licenses are structured differently. Center based care distinguishes infant/toddler and preschool and school age, whereas Family Child Care providers receive only one license.	Comments are noted. This section was revised so that guidelines are clear for centers and family child care providers.
18074.2	(12) Theresa Corrigan, Child Action.	19. When RMR distributed to agencies in September, hourly ceiling for in-home/exempt providers was in question. Still needs clarification	Comments are noted. CDE revised S. 18074.5 to address the establishment of reimbursement rate for In-home/exempt providers.

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18074.2	(12) Theresa Corrigan, Child Action.	20. We would like to see the old regulation continued to allow kindergartners to remain at the 5-year ceiling until the school term ends. Providers who care for kindergarten children will see a significant decrease in their payments if the school-age ceiling is applied.	Comments are noted; changes were made to the regulations. Section 18074.2 (b)(1) has been changed to allow child care centers to utilize the preschool age for licensing purposes for the 2-5 age category.
18074.2(a)(1)(D)	(25) Mary Hoshiko, Chairperson, California YMCA Child Care Advisory Committee.	21. Change to read, “ (D) Operate public recreation programs as defined in Health and Safety Code section 1596.792(g) or a nationally chartered non-profit youth serving organization in good standing (i.e. YMCA, YWCA, Boys and Girls Clubs, etc.) or a camp as defined by Health and Safety Code section 18897 and accredited by the American Camping Association.”	Comments are noted; changes were made to the regulations to include the Health and Safety code section.
18074.2(a)(1)(B), (C), and (D)	(5) Stephanie Simcox, Children’s Council of San Francisco.	22. Also include definition of an exempt center from Title 22 Division 12 Child Care Center General Licensing Requirements section 101158 dated 8/7/02 based on Health and Safety Code section 1596.792.	Comments are noted; changes were made to the regulations to include the Title 22 reference.
18074.2 (b)	(5) Stephanie Simcox, Children’s Council of San Francisco.	23. Burdensome; change to school age starting at age 6.	Comments are noted; changes were made to the regulations.
18074.2 (b)	(11) Laura Ivans	24. Clarify exempt provider rates. 90% of Family Child Care rate or October RMR ceiling?	Comments are noted. The regulations were amended to delete this provision.
18074.2 (b)	(11) Laura Ivans	25. Two different categories for kindergarten children will cause	Comments are noted. The regulations were amended to provide agencies with flexibility in determining rates for

Section	Name and Agency	Comment	CDE Response
		inconsistency in payment.	kindergarten children.
18074.2 (b)(1) and (2)	(15) Heather Dauler, for Debbie Macdonald, CAPPA Board President.  (27) Shirley A. McPherson, Subsidy Program Director, Child Care Links	26. Proposed language will set up a burdensome, inconsistent, and unclear differentiation by creating two different rate categories for 5-year-old kindergartners. This language will further splinter consistency in the area of reimbursement to kindergartner children, by allowing an exempt provider to be reimbursed at the "6+" rate and a licensed provider at the "2-5" rate.	Comments are noted. The regulations were amended to provide agencies with flexibility in determining rates for kindergarten children.
18074.2(b) (1) and (2)	(26) Renee Herzfeld, Deputy Director, Community Child Care Coordinating Council of Alameda County.	27. Burdensome, inconsistent, and unclear system.	Comments are noted. The regulations were amended to provide agencies with flexibility in determining rates for kindergarten children.
18074.2 (b), (2)(A), (B), and (c)	(24) Senaida Garcia, Project Director, Tulare County Child Care Education Program, Tulare County Office of Education.	28. The age category rule should be the same for both licensed and exempt care.	Comments are noted; changes were made to the regulations.
18074.3	(6) Michele Rutherford, City and County of San Francisco.	29. Concern regarding administrative burden created by waivers. Recommend strengthen section by identifying that waivers provided prior to transfer (either between stages of between program administrators) should be honored in order to minimize disruptions in care.	Comments are noted. CDE believes that Section 18074.3 (g) already carries out the intent of the concerns regarding minimizing the disruption of services. It states that the transfer of a family between agencies or stages of CalWORKs child care in the same county shall not be delayed or refused due to differences in policy regarding rate documentation.
18074.3	(11) Laura Ivans.	30. Documentation of 25% unsubsidized children poses burden for APPs.	Comments are noted; the regulations were amended to delete the requirement that contractors document 25% of the enrolled children are unsubsidized.
18074.3	(12) Theresa Corrigan, Child Action.	31. Violation of Education Code § 8222.5(c). Types of	Comments are noted. CDE revised regulations to meet Education Code S. 8222.5 requirements that require

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		documentation required violate privacy of unsubsidized families. Types of documentation proposed provide lump sum but not necessarily rates. Burdensome to contractor.	CDE to specify a process for contractors to determine the amount charged to private pay families. This is necessary for the consistent administration of programs statewide.
18074.3	(14) Beverly Tidwell, Children's Home Society of California.	32. Burdensome.	Comments noted. No response necessary.
18074.3	(16) Eve Hershcopf, Child Care Law Center.	33. Attempts to accomplish indirectly that which the Legislature has prohibited directly. Proposed regulations constitute a significant and likely illegal intrusion into the privacy of unsubsidized families under Article 1 of the California Constitution and the Information Practices Act. Requirements to gather and submit extensive data of unsubsidized families have a particularly harsh impact on small businesses, whether child care centers or family child care homes. CDE should withdraw proposed section 18074.3.	The comments are noted. Section 18074.3 has been amended to ensure that documentation containing family information is treated as confidential information and maintained in a secure location. Only authorized employees of CDE and/or Department of Social Services will have access to the information.
18074.3	(18) Billee Willson, Sacramento County Dept. of Human Assistance.	34. Out of compliance with Education Code § 8222.5. Requires documentation that is of a confidential nature.	Comments are noted. CDE revised regulations to meet Education Code S. 8222.5 requirements that require CDE to specify a process for contractors to determine the amount charged to private pay families. This is necessary for the consistent administration of programs statewide.
18074.3	(19) Wendy Wayne, Kern County Superintendent of Schools.	35. Proposed regulations are cumbersome and time intensive for Alternative Payment programs.	Comments are noted. CDE revised the regulations to improve clarity and minimize the time intensive requirements for Alternative Payment programs.
18074.3	(21) Wendy Tseng, Southern	36. 75/25% rules are not	Comments are noted; changes were made to the

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	California Chinese Family Child Care Association.	administrable as providers' children's enrollment change quite often. Recommend language: Contractors shall contract with providers who serve both subsidized and unsubsidized children.	regulations. This section has been amended to delete the requirement that contractors document that 25% of the children enrolled in the facility are subsidized.
18074.3(a), (b), and (c)	(24) Senaida Garcia, Project Director, Tulare County Child Care Education Program, Tulare County Office of Education.	37. If providers have complied with (a) and based on this information, the provider's rates have been established, does (b) apply? How often are we going to be expected to monitor the 25% enrollment of unsubsidized children? Enrollment is a fluid number and could change frequently. How often are we to monitor (c)?	Comments are noted; changes were made to the regulations. This section has been amended to delete the requirement that contractors document that 25% of the children enrolled in the facility are subsidized.
18074.3 (b)	(5) Stephanie Simcox, Children's Council of San Francisco.	38. We would prefer to have a documentation method that shows that we are not subsidizing more than 75% of the licensed slots of each licensed provider. Giving us the option to choose which method to document that 25% of the children enrolled are unsubsidized would be much less difficult for counties like ours where we are the only AP, and also administer all the CalWORKs programs.	Comments are noted; changes were made to the regulations. This section has been amended to delete the requirement that contractors document that 25% of the children enrolled in the facility are subsidized.
18074.3 (b)	(8) Cliff Marcussen, Options.	39. Proposes that the term "the facility" in this section be defined as the program covered by a single rate or set of rates, whether the program is operated	Comments are noted. The regulations were amended and the term "the facility" was deleted.

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		at one or more sites.	
18074.3 (b)	(6) Michele Rutherford, City and County of San Francisco.	40. In small operations, percentages of subsidized/unsubsidized will shift with minor changes in enrollment. In small Family Child Care this requirement will lead to discouraging Family Child Care providers from accepting large family groups of four or more.	Comments are noted; changes were made to the regulations. This section has been amended to delete the requirement that contractors document that 25% of the children enrolled in the facility are subsidized.
18074.3 (b)	(8) Cliff Marcussen, Options.	41. Recommends that either the section define what appropriate documentation is expected, or that the section specifically state that the contractor shall adopt a policy defining what documentation is acceptable. [If subsection (d) applies to both subsection (b) and subsection (c), it would be helpful if subsection (d) specifically referenced both subsections (b) and (c), or (a) and (b) and (c). However, the list of acceptable documentation in (e) seems to relate to the amount of money paid by unsubsidized families, and does not define how providers would document 25% or more unsubsidized children. If (d) is intended to cover (b), then (e) must be expanded to define what documentation is acceptable for (b).]	Comments are noted. This section has been amended to delete the requirement that contractors document that 25% of the children enrolled in the facility are subsidized.
18074.3 (b)	(10) Ronald Wenkart, Orange County Department of Education	42. Discriminates against providers who cannot find enough unsubsidized children.	Comments are noted; changes were made to the regulations. This section has been amended to delete the requirement that contractors document that 25% of



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			the children enrolled in the facility are subsidized.
18074.3 (b)	(15) Heather Dauler, for Debbie Macdonald, CAPPA Board President.	<p>43. Burdensome: collection and analysis of documentation for each separate rate rather than the program as a whole; term “facility” is undefined and does not take into account rates that are established for programs at multiple elementary schools.</p> <p>44. Language does not speak to how often the documentation for such rate establishment shall be collected.</p>	Comments are noted. The term "facility" has been deleted from the regulations. Documentation of each rate paid by unsubsidized families shall be for at least three consecutive months during the preceding 12 months.
18074.3 (b)	(23) Dee Tucker, State President, CCDAA.	45. Proposes the term “facility” be defined in regulation to cover a single rate or set of rates operated by a program at one or more sites.	Comments are noted. This section has been amended, and the term "facility" has been deleted.
18074.3 (b)	(23) Dee Tucker, State President, CCDAA.	46. Proposes that this section define what documentation is expected or state that contractors shall adopt a policy defining what documentation is acceptable.	Comments noted. This section was amended to include a list of documentation requirements and requires that contractors adopt a policy for the requirements.
18074.3 (b)	(26) Renee Herzfeld, Deputy Director, Community Child Care Coordinating Council of Alameda County.	47. Burdensome because “facility” is undefined and does not take into account rates that are set for programs that operate at multiple sites. Further, it would pose an extreme burden to AP/CalWORKs contractors to collect and analyze documentation on the 25% unsubsidized rule for each separate site rather than the program as a whole.	Comments are noted. This section has been amended, and the term "facility" has been deleted. This section has been amended to delete the requirement that contractors document that 25% of the children enrolled in the facility are subsidized.
18074.3 (b)	(26) Renee Herzfeld, Deputy Director, Community Child	48. Section includes requirement to “establish a rate.” This language	Comments are noted; Section 18074.3 (b) states that the provider must supply documentation for each rate paid

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	Care Coordinating Council of Alameda County.	lacks clarity in how often the documentation must be collected.	by unsubsidized families for a consecutive period of at least 3 months of the preceding 12 months.
18074.3 (b)	(27) Shirley A. McPherson, Subsidy Program Director, Child Care Links.	49. (a)The term “facility” is undefined and does not take into account rates that are established for programs that operate at multiple sites. 50. (b) Would pose extreme burden to AP/CalWORKs contractors to collect and analyze documentation on the 25% unsubsidized rule. (c)Would require paying families to be informed that information regarding their children attending these sites must be shared in order to determine that 25% of the children in care are unsubsidized.	Comments are noted. This section has been amended, and the term "facility" has been deleted. This section has been amended to delete the requirement that contractors document that 25% of the children enrolled in the facility are subsidized.
18074.3 (b) through (f)	(5) Stephanie Simcox, Children’s Council of San Francisco.	51. Extremely concerned about privacy issues related to this section. Also is a burdensome administrative tracking issue that requires extensive AP program staff time.	The comments are noted. This section has been amended to ensure that documentation containing family information is treated as confidential information and maintained in a secure location. Only authorized employees of CDE and/or Department of Social Services will have access to the information.
18074.3 (c)	(8) Cliff Marcussen, Options.	52. No definition of the number of unsubsidized children for whom documentation on the rate paid must be submitted. How often must documentation be collected? Cost to agency of analysis and storage. Privacy.	Comments are noted; changes were made to the regulations. Section 18074.3 (b) states that the provider must supply documentation for each rate paid by unsubsidized families for a consecutive period of at least 3 months of the preceding 12 months.
18074.3 (c)	(15) Heather Dauler, for Debbie Macdonald, CAPP Board President. (26) Renee Herzfeld, Deputy	53. Language lacks clarity, is arbitrary (3 of preceding 12 months), without clear authority, and will delay services to	Comments are noted; changes were made to the regulations. Section 18074.3 (b) states that the provider must supply documentation for each rate paid by unsubsidized families for a consecutive period of at least

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	Director, Community Child Care Coordinating Council of Alameda County. (27) Shirley A. McPherson, Subsidy Program Director, Child Care Links.	parents. AP/CalWORKs contractors may never have had an established rate category for the service being requested. Language lacks clarity in how often the documentation shall be collected.	3 months of the preceding 12 months.
18074.3 (c)	(23) Dee Tucker, State President, CCDA.	54. Propose that the regulation provide clarity in documentation requirements and frequency of collection. We would also suggest the regulation provide a list of acceptable payment verification data that can be collected from providers regarding their unsubsidized families without an invasion of their privacy.	Comments are noted. Changes were made to the regulation. Section 18074.3 (b) states that the provider must supply documentation for each rate paid by unsubsidized families for a consecutive period of at least 3 months of the preceding 12 months. Also, this section has been amended to ensure that documentation containing family information is treated as confidential information and maintained in a secure location. Only authorized employees of CDE and/or Department of Social Services will have access to the information.
18074.3 (c) and (e)	(10) Ronald Wenkart, Orange County Department of Education	55. These requirements would violate the right to privacy of the provider and the parents involved and would unnecessarily reveal confidential information.	The comments are noted. This section has been amended to ensure that documentation containing family information is treated as confidential information and maintained in a secure location. Only authorized employees of CDE and/or Department of Social Services will have access to the information.
18074.3 (c) through (f)	(6) Michele Rutherford, City and County of San Francisco.	56. Burdensome. If supportive documentation of private rate MUST be required, allow providers to submit their “published” rates. These could be checked with cold calls or other means by AP’s.	Comments noted.
18074.3 (e)(1) and (2)	(7) John A. Hickey.	57. Information released to state could reach general public. Potential exposure of unsubsidized families to crime by publicizing hours at which the families regularly require	The comments are noted. This section has been amended to ensure that documentation containing family information is treated as confidential information and maintained in a secure location. Only authorized employees of CDE and/or Department of Social Services will have access to the information.

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		child care. CDE “seizure” of private information regarding unsubsidized families is improper and would potentially expose the Department and officials of the Department (in a personal capacity) to actions under 42 U.S.C. § 1983.	
18074.3 (e)(2)	(24) Senaida Garcia, Project Director, Tulare County Child Care Education Program, Tulare County Office of Education.	58. This documentation would be difficult to obtain and in our view would be inappropriate to do so.	Comments noted
18074.3 (h)	(6) Michele Rutherford, City and County of San Francisco.	59. Puts state in position of referee if agreement cannot be reached.	Comments noted; however, no change has been made to the regulations related to this comment.
18074.3(h)	(24) Senaida Garcia, Project Director, Tulare County Child Care Education Program, Tulare County Office of Education.	60. This might be difficult to implement immediately.	Comments noted; however, no change has been made to the regulations related to this comment.
18074.3 (i)	(9) Brian Lovell, California School-Age Consortium; (22) Pamela Brasher, California School- Age Consortium.	61. Suggest that “only” be applied at the beginning, “Only when none of the provider’s established rates...”	Comments noted; however, no change has been made to the regulations related to this comment.
18074.3 (j)	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	62. Page 4 lines 32 and 33 need to be deleted because it is not possible to have a lesser documented rate than a derived rate.	Comments are noted; however no changes were made related to the comments. The intent of this section is to provide methodology to calculate the lesser of the child care rates in the absence of an established rate.
18074.3 (k)	(25) Mary Hoshiko, Chairperson, California YMCA Child Care Advisory Committee.	63. Eliminate or amend to read, “If the family’s need for care can be met by more than one category as defined in section 18075, the contractor shall work with the provider to derive a rate based on the most appropriate	Comments noted; however, no change has been made to the regulations related to this comment.

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		published rate category.”	
18074.4	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	64. Violates Education Code § 8222.5.	Comments are noted. CDE revised regulations to meet Education Code S. 8222.5 requirements that require CDE to specify a process for contractors to determine the amount charged to private pay families. This is necessary for the consistent administration of programs statewide.
18074.4	(6) Michele Rutherford, City and County of San Francisco.	65. Recommend add Family Child Care networks to the language.	Comments noted. The regulations have been amended to include Family child care homes at Section 18074.2 (a)(2).
18074.4	(10) Ronald Wenkart, Orange County Department of Education.	66. Would require the Orange County Department of Education to conduct a survey and determine the market rate. At present, the Orange County Department of Education accepts the State’s determination of the regional market rate. The proposed regulation would shift the responsibility from the State to the Orange County [Department] of Education and could result in liability to the Orange County Department of Education.	Comments noted. This section requires contractors to establish a provider reimbursement rate for providers who are <u>unable or unwilling</u> to establish a rate. The contractor is required to randomly select at least 5 of the same type of facility in the same or comparable zip code and calculate the average. This process is not comparable to the Regional market rate survey which is a statewide survey.
18074.4	(12) Theresa Corrigan, Child Action.	67. RMR survey does this. Is CDE’s intent to have each agency conduct own research?	Comments noted. This section requires contractors to establish a provider reimbursement rate for providers who are <u>unable or unwilling</u> to establish a rate. The contractor is required to randomly select at least 5 of the same type of facility in the same or comparable zip code and calculate the average. This process is not comparable to the Regional market rate survey which is a statewide survey.
18074.4	(14) Beverly Tidwell, Children’s Home Society of California.	68. Burdensome.	Comments noted. This section requires contractors to establish a provider reimbursement rate for providers who are <u>unable or unwilling</u> to establish a rate. The contractor is required to randomly select at least 5 of the

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			same type of facility in the same or comparable zip code and calculate the average. This process is not comparable to the Regional market rate survey which is a statewide survey.
18074.4	(15) Heather Dauler, for Debbie Macdonald, CAPPA Board President.	69. This language again lacks consistency due to the fact that RMRs are the ceilings and are therefore not representative of established rates.	Comments are noted. No changes were made to the regulations related to the comments. The regulations are consistent because the RMR ceilings are the maximum payments that can be made to child care providers. Provider established rates may be flexible.
18074.4	(17) Denise Dowell, United Child Care Union.	70. This provision is in conflict with current law that prohibits regulations that differentiate provider reimbursement rates based upon the percentage of subsidized children receiving care in a facility. .... we recommend eliminating this provision....	Comments are noted. No changes were made to the regulations related to the comments.
18074.4	(18) Billee Willson, Sacramento County Dept. of Human Assistance.	71. The regulation in this section appears to be replacing the RMR survey?	Comments noted. This section requires contractors to establish a provider reimbursement rate for providers who are <u>unable or unwilling</u> to establish a rate. The contractor is required to randomly select at least 5 of the same type of facility in the same or comparable zip code and calculate the average. This process is not comparable to the Regional market rate survey which is a statewide survey.
18074.4 (b) through (f)	(5) Stephanie Simcox, Children's Council of San Francisco.	72. "We believe that this section is unnecessary because we don't agree with the documentation requirements in section 18074.3. We believe that we should use the rates as established by licensed providers in the running of their own businesses rather than being so extensively involved in "assisting" them in setting what should be a market	Comments are noted This section requires contractors to establish a provider reimbursement rate for providers who are <u>unable or unwilling</u> to establish a rate. The contractor is required to randomly select at least 5 of the same type of facility in the same or comparable zip code and calculate the average.

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		based rate.”	
18074.4 (c)	(26) Renee Herzfeld, Deputy Director, Community Child Care Coordinating Council of Alameda County. (27) Shirley A. McPherson, Subsidy Program Director, Child Care Links.	73. Lacks consistency due to the fact that the RMRs are the ceilings and are therefore not representative of established rates.	Comments noted. This section requires contractors to establish a provider reimbursement rate for providers who are <u>unable or unwilling</u> to establish a rate. The contractor is required to randomly select at least 5 of the same type of facility in the same or comparable zip code and calculate the average. This process is not comparable to the Regional market rate survey which is a statewide survey.
18074.4 (d)	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	74. Please specify that the random local rates must be “natural” market rates.	Comments noted; however, no change has been made to the regulations related to this comment. Randomly selecting local rates does not mean selecting "random local rates" as the local rates are already established.
18074.4 (d)	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	75. Please specify what contractor is to do when the average of the 5 rates comes to more than the Regional Rate Ceiling.	Comments are noted. When the average of the 5 rates comes to more than the RMR ceiling, providers shall be reimbursed the lesser of the regional market rate ceiling, the comparable local rate, or the providers requested rate, Section 18074.2(c).
18074.5	(9) Brian Lovell, California School-Age Commission; Pamela Brasher, California School- Age Consortium.	76. On line 34: “hourly, which shall only be used for the following: a child’s need for child care of less than 30 hours per week...” we feel that since it is listed as (a) and part-time weekly, monthly, etc. are (c) and (e), that it looks as if hourly must be applied to any part-time slot. We suggest that it be listed last in section 18075.5. We would further suggest that “only” be stricken from lines 10, 19, 24, and 32 on page 6.	Comments noted; however, no change has been made to the regulations related to this comment. Hourly rates are applied to those hours which exceed 52.5 weekly hours.
18074.5	(18) Billee Willson, Sacramento County Dept. of Human Assistance.	77. In-home/exempt providers are not impacted by the new comparable local rate calculations. If the in-home/exempt regional market	Comments noted. The regulations have been amended and delete the 90%/10% ceiling ratio of in-home/exempt vs. family child care homes.

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		ceilings are based on 90% of the Family Child Care home regional market ceilings, then shouldn't the in-home/exempt payments be based on 90% of the Family Child Care home comparable local rate?	
18075	(11) Laura Ivans.	78. Changing FT rate back to 30 hours from over 30 hours is confusing for parents and providers. Recommend leave it that FT is more than 30 hours.	Comments noted. No changes to the regulations have been made related to the comments.
18075	(17) Denise Dowell, United Child Care Union	79. UCCU recommends that the current revisions to the calculations, with the exceptions of the 75% rule provisions, be implemented immediately at the end of the 15-day response period. This will alleviate the chaotic conditions in the child care community and disruptions to children, families, and providers resulting from the emergency regulations.	The comments are noted. The Office of Administrative Law regulations specifies the length of public comment period and the recipients of 15-day notice, Title 1, Division 1, Chapter 1, California Code of Regulations, Article 2, Section 44.
18075	(24) Senaida Garcia, Project Director, Tulare County Child Care Education Program, Tulare County Office of Education.	80. Request that "part-time daily" rate ceiling be reestablished.	Comments noted; however, no change has been made to the regulations related to this comment. CDE believes that the daily and hourly rates as set forth in the regulations meet the concerns of this comment.
18075 (a)	(25) Mary Hoshiko, Chairperson, California YMCA Child Care Advisory Committee.	81. The hourly rate is listed first in the reimbursement rate categories. This makes sense in a linear lowest to highest explanation, but it also implies	Comments noted; however, no change has been made to the regulations related to this comment. The order of the "hourly" category does not represent its order of importance.



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		that hourly is the first and most important definition. Is there a way to further explain or format this section to foster a more consistent interpretation?	
18075(a)(3)	(1) Lian Kho, Fresno County Human Services Department.	82. Does this apply to all child care providers?	Comments are noted. The regulations apply to all CDE contractors that use the Regional Market Rate.
18075(a)(3)	(1) Lian Kho, Fresno County Human Services Department.	83. The last sentence contradicts the first part of this regulation since being 52.5/week will exceed the full-time weekly, but not necessarily the full-time monthly rate (due to the fact that this child care rendered does not cover the whole month).	Comments are noted. No change to the regulations was made related to the comment; however, CDE has made efforts to clarify and streamline the regulations.
18075(a)(3)	(12) Theresa Corrigan, Child Action.	84. We feel that this section is unnecessary and could lead to excessive payment. We would like to see the 52.5 rule eliminated.	Comments are noted. No changes were made to the regulations related to the comments.
18075(a), (c), and (d)	(13) Emily Danner, County of San Bernardino Human Services System.	85. San Bernardino County recommends retaining the language in the Emergency Regulations in these subsections, due to the uncertainty of possible fiscal impact if the regulations were changes and to the increase in administrative workload due to retraining of the workers on relatively minor issues.	Comments are noted. No changes were made to the regulations related to the comments.
18075.1	(6) Michele Rutherford, City and county of San Francisco.	86. This section continues to require an application of the rate differential to the entire rate based on the percentage of care that falls outside of 6:00 to 6:00. This approach has no	Comments noted; however, no change has been made to the regulations related to this comment.

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		relationship to the actual market or how payment for private paying care is done outside the subsidy system. Recommendation: Include non-traditional hour rates in the rate survey to determine the local market.	
18075.1	(11) Laura Ivans.	87. Liked the requirement for using premium rates that required 25% of the time to be within premium hours. Would like to see this regulation reinstated.	Comments noted; however, no change has been made to the regulations related to this comment.
18075.1	(12) Theresa Corrigan, Child Action.	88. We recommend that the wording be changed to state that either the regional market ceiling or the provider's rate is adjusted whichever is lower. We would also recommend that the previous version of the 1.125 adjustment be retained that specified the adjustment would only be done if at least 25 but no more than 50 percent of care occurs during this period.	Comments are noted. No changes were made to the regulations related to the comments. The "recommendation to include non-traditional our rates in the rate survey" is outside the scope of the regulations. The Regional Market Rate survey is conducted by an independent agency contracted by the Resource and Referral Agency.
18075.1	(19) Wendy Wayne, Kern County Superintendent of Schools.	89. Support original wording.	Comments are noted. No changes were made to the regulations related to the comments.
18075.1	(21) Wendy Tseng, Southern California Chinese Family Child Care Association.	90. Contractor shall pay providers by hourly rate or what providers charge for overtime rate as it is overtime pay, NOT by adjustment factors.	Comments are noted. Section 18075.1 states that when a certified need for child care includes evenings and/or weekends hours, the contractor shall multiply the RMR ceiling for the applicable rate category by the appropriate adjustment factor.
18075.1	(27) Shirley A. McPherson, Subsidy Program Director, Child Care Links.	91. Implementing this change directly affects families who work part time and only need evening and weekend care. If	Comments are noted. Child Care Providers may use the part-time weekly rate for these child care needs.

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		care is 3 hours every evening five days a week hourly care must be used and in this situation 100% of the family's need for care is in the evening. This situation is not uncommon and Child Care Links believes it makes it more difficult for families to receive evening care.	
18075.1(a)	(24) Senaida Garcia, Project Director, Tulare County Child Care Education Program, Tulare County Office of Education.	92. Corrected language should read that the only exclusion is (18075(a)(2).	Comments are noted.
18075.1(b)	(13) Emily Danner, County of San Bernardino Human Services System.	93. San Bernardino County recommends retaining the language in the Emergency Regulations in this subsection, due to the uncertainty of possible fiscal impact if the regulations were changes and to the increase in administrative workload due to retraining of the workers on relatively minor issues.	Comments are noted. No changes have been made to the regulations related to the comments.
18075.2	(12) Theresa Corrigan, Child Action.	94. Our concern here is the specification that it must be the regional market ceiling that is adjusted. If the provider's rate is lower than the ceiling, the adjustment will result in more than what the provider was asking.	Comments are noted. The regulations were amended and deleted the "specification that the contractor shall multiply the RMR by their rate" and language added so that the resulting adjustment is less than what the provider is requesting.
18076	(12) Theresa Corrigan, Child Action.	95. Strongly recommend keeping this section as it is currently being applied under the emergency regulations.	Comments noted; however, no change has been made to the regulations related to this comment.
18076(b)(1)	(8) Cliff Marcussen, Options.	96. Concept of "excused absences"	Comments are noted. No changes have been made to

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		new to AP/CalWORKs programs. Multiple problems with adding this requirement.	the regulations related to the comments.
18076(b)(1)	(8) Cliff Marcussen, Options.	97. ADA has no application to typical “illnesses” for which a child is absent from child care.	
18076.2	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	98. Possibly title should say something like, “Additional Hours of Care for Reimbursement,” since you did not include hours of care that are <u>not</u> affected by absences, etc., and these are also reimbursable hours of care.	Comments are noted. No changes have been made to the regulations related to the comments.
18076.2	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	99. Since you deleted 18076(d), please specify in this section whether or not agencies are <u>required</u> to make these additional reimbursements for holidays, child illness, etc.	Comments are noted. No changes have been made to the regulations related to the comments. The CDE regulations provide a limitation of the number of reimbursable paid days of non-operation to a maximum of ten days per fiscal year per provider. Contractors are not required to pay the maximum but only not to exceed the ceiling.
18076.2	(11) Laura Ivans	100. In our county, most providers (71%) are paid for holidays and vacations. Payment for these kinds of things should be based on what providers charge non-subsidized families in your county.	Comments are noted. No changes have been made to the regulations related to the comments. The reimbursement rate is based upon the agreed-upon rate of providers.
18076.2	(12) Theresa Corrigan, Child Action.	101. What does last sentence mean?	Comments are noted. No changes have been made to the regulations related to the comments.
18076.2	(15) Heather Dauler, for Debbie Macdonald, CAPPA Board President.	102. Recommend delete term “vacation” throughout this entire section. Requiring “vacation”	Comments noted. CDE has amended the regulations and the term "vacation" has been deleted from the text and replaced with "day(s) of non-operation which addresses

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		payments to providers implies that the providers are employees. Forcing this application on the AP/CalWORKs system creates legal implications without protections.	the concern.
18076.2	(17) Denise Dowell, United Child Care Union.	103. Final regulations should clarify that the number of reimbursable paid holidays/vacation days is guaranteed up to the maximum number. This version still states that these days are up to a maximum of ten, leaving open the possibility that a provider could deny reimbursement for the maximum number.	Comments are noted. No changes have been made to the regulations related to the comments.
18076.2	(17) Denise Dowell, United Child Care Union.	104. Recommend that the number be 18 days per fiscal year provided that private pay parents pay for care on those days.	Comments are noted. No changes have been made to the regulations related to the comments.
18076.2	(17) Denise Dowell, United Child Care Union.	105. Recommend that part-time slots be covered.	Comments are noted. No changes have been made to the regulations related to the comments.
18076.2	(26) Renee Herzfeld, Deputy Director, Community Child Care Coordinating Council of Alameda County.  (27) Shirley A. McPherson, Subsidy Program Director, Child Care Links.	106. Recommendation: delete the term "vacation" throughout this entire section.	Comments noted. CDE has amended the regulations and the term "vacation" has been deleted from the text and replaced with "day(s) of non-operation which addresses the concern.
18076.2(b)(1)	(15) Heather Dauler, for Debbie Macdonald, CAPPA Board President.	107. It would appear that this statement has no reason to exist in this area of the regulations. The ADA was created to address	Comments noted. This section states that "Reimbursement for an excused absence based on the child's illness shall not occur in lieu of providing accommodations for the child pursuant to the applicable

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	(26) Renee Herzfeld, Deputy Director, Community Child Care Coordinating Council of Alameda County.	accommodations allowing access and protections and not to address the issue of "illness." In the child care industry, if a provider is able to make reasonable accommodations for a child with disabilities, then the child is enrolled and the provider does not exclude the child because of the accommodated disability.	provisions of the Americans with Disabilities Act" was placed in this section for clarity.
18076.2(b)(1)	(23) Dee Tucker, State President, CCDAA.	108. This section needs to provide clarity about what the regulation is requiring.	Comments noted. This section states that "Reimbursement for an excused absence based on the child's illness shall not occur in lieu of providing accommodations for the child pursuant to the applicable provisions of the Americans with Disabilities Act" was placed in this section for clarity.
18076.2(b)(1)	(23) Dee Tucker, State President, CCDAA.	109. Excused absences and/or Best Interest Days (§ 18066) relates to the center based contract reimbursement system. It does not align with the private market in which providers charge for the contracted space versus excused or unexcused absences. Current legal requirement is that AP programs pay the amount the providers charge unsubsidized families; this section violates that requirement.	
18076.2(b)(2)	(24) Senaida Garcia, Project Director, Tulare County Child Care Education Program, Tulare County Office of Education.	110. Please delete the words "or vacation" and "or vacations."	Comments noted. CDE has amended the regulations and the term "vacation" has been deleted from the text and replaced with "day(s) of non-operation which addresses the concern.
18076.2(b)(	(24) Senaida Garcia, Project	111. The required	

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2)	Director, Tulare County Child Care Education Program, Tulare County Office of Education.	documentation should also include situations that require alternate child care because of the child's potential risk of continued illness in the primary provider's setting.	
18076.2(b)(1)	(26) Renee Herzfeld, Deputy Director, Community Child Care Coordinating Council of Alameda County.  (27) Shirley A. McPherson, Subsidy Program Director, Child Care Links.	112. Second sentence has no reason to exist in this area of the regulations. The ADA was created to address accommodations allowing access and protections and not to address the issue of "illness." In child care, if a provider is able to make reasonable accommodations for a child with disabilities, then the child is enrolled and the provider does not exclude the child because of the accommodated disability.	Comments noted. This section states that "Reimbursement for an excused absence based on the child's illness shall not occur in lieu of providing accommodations for the child pursuant to the applicable provisions of the Americans with Disabilities Act" was placed in this section for clarity.
18076.2(d)(1)	(6) Michele Rutherford, city and County of San Francisco.	113. This language would appear to prohibit the payment for care for a mildly ill child who cannot attend school.	Comments are noted. Section 18076.2 (c)(2) includes reimbursable hours for eligible alternative providers for a mildly ill child and provides for additional reimbursement with a physician verification.
18076.2(d)(1)	(15) Heather Dauler, for Debbie Macdonald, CAPPA Board President.  (27) Shirley A. McPherson, Subsidy Program Director, Child Care Links.  (26) Renee Herzfeld, Deputy Director, Community Child Care Coordinating Council of Alameda County.	114. For clarification purposes, CAPPA recommends that the word "required" and the words "required to" be inserted into the sentence. If added, the sentence would read, "[T]he scheduled instructional minutes required of a public educational program available to a school age child or a private school in which the child is required to be enrolled and attending."	Comments are noted. The regulations were not changed relative to the comments because the comments infer that the CDE can establish requirements for public educational programs. The comments are outside the scope of CDE's responsibility.
18220.5	(2) Nancy Wyatt, President,	115. This whole section	Comments noted. CDE has deleted the entire Section

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	Family Child Care Council of San Fernando Valley.	should be deleted if it was the intent of AB 1754 to prohibit, during this fiscal year, any regulations that would differentiate reimbursements based on the percentage of subsidized children.	18220.5.
18220.5	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	116. Please clarify what “serve” means on page 10 line 13.	Comments noted. CDE has deleted the entire Section 18220.5.
18220.5	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	117. Please specify what agencies should do if a provider loses a private client <u>after</u> the subsidized child is enrolled and the percentage children drops to below 25%.	Comments noted. CDE has deleted the entire Section 18220.5.
18220.5	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	118. To conform to state law, please specify that the percentage of subsidized children must be less than 75% after the subsidized child is enrolled, unless a waiver is obtained.	Comments noted. CDE has deleted the entire Section 18220.5.
18220.5	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	119. Page 10 line 13: please change “at least 25% unsubsidized children” to “more than 25% unsubsidized children” in order to conform to state law.	Comments noted. CDE has deleted the entire Section 18220.5.
18220.5	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	120. Please use your authority to add a waiver exception to the 75% rule for facilities in areas where less than 25% of the families that need child care are above the 75% state median income.	Comments noted. CDE has deleted the entire Section 18220.5.
18220.5	(2) Nancy Wyatt, President, Family Child Care Council of	121. These regulations could be more stable, clear, and user	Comments noted. CDE has deleted the entire Section 18220.5.



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	San Fernando Valley.	friendly if they referred to other section numbers less often.	
18220.5	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	122. Please require agencies to inform providers in writing about the 75% Rule waivers and the requirement that providers <u>ask</u> the agency for a waiver in order to become eligible.	Comments noted. CDE has deleted the entire Section 18220.5.
18220.5	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	123. Please specify a time limit for agencies to respond in writing to the provider's waiver request and require the agencies to send the written response to the provider.	Comments noted. CDE has deleted the entire Section 18220.5.
18220.5	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	124. Please state how contractors are to obtain statistics on the supply of convenient facilities.	Comments noted. CDE has deleted the entire Section 18220.5.
18220.5	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	125. Please define "lack of facilities" as a lack of facilities with vacancies.	Comments noted. CDE has deleted the entire Section 18220.5.
18220.5	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	126. Contractors should automatically give waivers to all facilities in areas where there is a lack of facilities as identified by their Local Child Care Planning Committee.	Comments noted. CDE has deleted the entire Section 18220.5.
18220.5	(4) John Morton, Children's Services Network of Merced County.	127. In preliminary discussions with CDE representatives concerning this regulation revision there were suggestions that any waiver to the "75% Rule" would be made by the parent. We believe that this procedure would simplify the process and drive the waivers based on parental needs rather	Comments noted. CDE has deleted the entire Section 18220.5.

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		than provider needs. It would avoid requests for “blanket waivers” by providers in remote areas of the county or for other perceived “good reasons”.	
18220.5	(12) Theresa Corrigan, Child Action.	128. Recommend section be eliminated from the regulations and that the Department develop clarifying policies regarding the implementation of the 25 percent rule. We further recommend that if the 25 percent rule remains in effect, that it be based on license capacity rather than enrollment.	Comments noted. CDE has deleted the entire Section 18220.5.
18220.5	(17) Denise Dowell, United Child Care Union.	129. Urge Department to eliminate 75% Rule provision from these regulations and addressed this issue with newly-proposed regulations using the non-emergency regulatory process. The proposed 75 percent rule provisions contradict the spirit and intent of the law, are impossible to monitor and thus, unenforceable.	Comments noted. CDE has deleted the entire Section 18220.5.
18220.5	(18) Billee Willson, Sacramento County Dept. of Human Assistance.	130. Providers located in neighborhoods that are not able to establish rates based on 25% of non-subsidy parent’s payments nor able to meet the waiver requirements, will lose subsidy families and be forced to close down. An additional waiver provision could be added to this section allowing neighborhoods to be identified,	Comments noted. CDE has deleted the entire Section 18220.5.

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		and waivers granted based on the location of the provider.	
18220.5	(19) Wendy Wayne, Kern County Superintendent of Schools.	131. Proposed regulations are cumbersome and time intensive for Alternative Payment programs. Regulations for eligible providers attempt to provide flexibility for agencies, however, the expectation for agencies to successfully implement the regulation is unrealistic.	Comments noted. CDE has deleted the entire Section 18220.5.
18220.5(b)(3)	(6) Michelle Rutherford, City and County of San Francisco.	132. The ability to waiver based on “special needs” is confusing. In the field “special needs” is considered to mean children’s health and mental health challenges. Recommendation: continue to clarify the broad interpretation of the regulatory language “special needs” as applied in this section.	Comments noted. CDE has deleted the entire Section 18220.5.
18413 and 18428	(2) Nancy Wyatt, President, Family Child Care Council of San Fernando Valley.	133. Please add the words “the cost of child care” after your newly word “reimburse” in order to conform to state law Education Code section 8357(3) which states that “...the cost of that child care shall be reimbursed...if that cost is within the regional market rate.” And please clarify that “cost” in this context means the provider’s private rate. If you do not add these words for clarity, agencies will pay any amount they want that is “within” the regional	Comments noted. This section has been amended to state that contractors shall pay providers up to the amount the provider charges unsubsidized families, not to exceed the maximum subsidy amount.

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		market rate.	
18428	(21) Wendy Tseng, Southern California Chinese Family Child Care Association.	134. Providers should be paid according to cost of child care not by fixed rates.	Comments noted. This section has been amended to state that contractors shall pay providers up to the amount the provider charges unsubsidized families, not to exceed the maximum subsidy amount.